IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

SOUTHERN ELECTRICAL)
RETIREMENT FUND	No. 3-10-0264
v.	
SPIGENER ELECTRIC COMPANY,)
INC.; and SHERRILL KEITH)
SPIGENER)

ORDER

The plaintiff's motion for order compelling attendance at deposition and production of documents (Docket Entry No. 21) is GRANTED. The defendants have not filed a response, indicating that there is no opposition to the motion. <u>See</u> Local Rule 7.01(b).

A representative of defendant Spigener Electric Company, Inc. shall appear for a deposition, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, to be rescheduled by the plaintiff, giving the defendant at least 14 days advance notice. The defendant's representative shall bring with him the documents described in the Notice of Deposition and Request for Production of Documents (Docket Entry No. 21-1).

Although in both its motion and memorandum, it appears that the plaintiff seeks an award of attorney's fees caused by the defendant's failure to appear for the November 15, 2010, deposition, the plaintiff also indicates in the memorandum that it is not seeking sanctions for the defendant's failure to appear on November 15, 2010. Since it is not clear whether the plaintiff is actually seeking imposition of an award of attorney's fees, since the defendants are not represented by counsel, and since they have not been previously warned that their failure to appear as noticed at a deposition could result in imposition of sanctions, including attorney's fees, the Court finds that it would be unjust to impose an award of attorney's fees against the defendant at this time.

¹ However, defendant Spigener Electric Company, Inc. is required to obtain counsel. <u>See</u> Local Rule 83.01(d)(3).

However, the defendant is warned that his failure to appear for a deposition at a date and time designated by the plaintiff and produce the requested documents may result in imposition of sanctions, in accord with Rule 37(b) and (d) of the Federal Rules of Civil Procedure, including but not necessarily limited to, an award of attorney's fees incurred as a result of any subsequent motion filed by the plaintiff and the costs of a court reporter to transcribe the deposition.

The Clerk is directed to mail a copy of this order to the defendants at 404 Laurel Creek Rd., Titus, Alabama 36080, by regular, first class mail and by certified mail.

It is so ORDERED.

United States Magistrate Judge